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FINANCING OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR GENOCIDE AND OTHER SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF RWANDA AND RWANDAN CITIZENS RESPONSIBLE FOR GENOCIDE AND OTHER SUCH VIOLATIONS COMMITTED IN THE TERRITORY OF NEIGHBOURING STATES BETWEEN 1 JANUARY AND 31 DECEMBER 1994

REPORT OF THE SECRETARY-GENERAL ON THE ACTIVITIES OF THE OFFICE OF INTERNAL OVERSIGHT SERVICES

Note by the Secretary-General

1. Pursuant to General Assembly resolution 50/213 C of 7 June 1996, the Secretary-General has the honour to transmit, for the attention of the General Assembly, the attached report, conveyed to him by the Under-Secretary-General for Internal Oversight Services, on the audit and investigation of the International Criminal Tribunal for Rwanda.

2. The Secretary-General agrees with the overall findings of the report. While recognizing that uncertainties concerning the timely provision of budgetary resources hindered effective administrative support, the Secretary-General emphasizes that closer coordination between substantive departments at United Nations Headquarters and newly established entities such as the Tribunal should be ensured from the beginning of the start-up phase of such new entities.

3. The Secretary-General is committed to closing the gap identified by the Office of Internal Oversight Services and taking all required measures to streamline and strengthen the Secretariat's support to the Tribunal. In immediate follow-up to the interim recommendations of the Office of Internal Oversight Services, additional assistance is currently being provided to the Tribunal on site and a more consistent pattern of support is being developed to meet its needs.

ANNEX

Report of the Office of Internal Oversight Services on the audit and investigation of the International Criminal Tribunal for Rwanda

SUMMARY

In response to a request by the General Assembly and following complaints received from staff members and Member States, the Office of Internal Oversight Services (OIOS) conducted an audit and investigation of the International Criminal Tribunal for Rwanda. In reviews of the records of the Tribunal and interviews of present and former staff members, both United Nations-assigned and seconded, OIOS became aware of serious operational deficiencies in the management of the Tribunal. Such deficiencies have developed virtually from its inception and continued through November 1996 when OIOS conducted this review at Kigali, Arusha, United Republic of Tanzania and at United Nations Headquarters.

In the Tribunal's Registry not a single administrative area functioned effectively: Finance had no accounting system and could not produce allotment reports, so that neither the Registry nor United Nations Headquarters had budget expenditure information; lines of authority were not clearly defined; internal controls were weak in all sections; personnel in key positions did not have the required qualifications; there was no property management system; procurement actions largely deviated from United Nations procedures; United Nations rules and regulations were widely disregarded; the Kigali office did not get the administrative support needed, and construction work for the second courtroom had not even started.

The Office of the Prosecutor in Kigali had administrative, leadership and operational problems. Functions were hampered by lack of experienced staff as well as lack of vehicles, computers and other office equipment and supplies. Lawyer posts were vacant and, of the almost 80 investigator posts, only 30 had been filled. Prosecution strategy deficiencies were noted. The witness-related programmes had not been fully developed.

The relationship between the Registry and the Office of the Prosecutor was often characterized by tension rather than cooperation. The Registrar has asserted that his function as Chief Administrative Officer of the Tribunal gave him ultimate authority for all matters having administrative or financial implications.

The effective establishment of the Tribunal had been affected by the short-term funding arrangements, by the geographical separation of the Prosecutor's Office from the other organs of the Tribunal and by the lack of adequate infrastructure at both Arusha and Kigali.

These difficulties were exacerbated by the recruitment of inexperienced or otherwise unqualified staff, decisions for which both the Registrar and the Secretariat bear responsibility. OIOS acknowledges that the less than attractive financial conditions at Arusha and Kigali did not facilitate the recruitment of qualified staff. The Secretariat also failed to provide adequate short-term support by assigning qualified staff members temporarily to the Tribunal especially during the critical start-up phase.

Senior personnel in the Department of Administration and Management and in the Office of Legal Affairs advised OIOS that they did not bear responsibility for the effectiveness or functionality of the Tribunal beyond very limited specifically assigned tasks. OIOS believes that this was a misperception, or at least an over-interpretation of the Security Council's request that the Tribunal be established as an independent body. OIOS wants to recall that the Security Council, in its resolution 955 (1994), requested the Secretary-General to make practical arrangements for the effective functioning of the Tribunal. These practical arrangements require much more than the formal establishment of the Tribunal and the appointment of its Registrar.

When the Organization assumed responsibility for the Tribunal, it assumed responsibility for its effective operation. As stated by the Security Council in resolution 955 (1994), the United Nations has not only expressed grave concern at the reports indicating that genocide and other systematic, widespread and flagrant violations of international humanitarian law have been committed in Rwanda, but has determined to put an end to such crimes and to take effective measures to bring to justice the persons who are responsible for them. If those words are to have meaning, if the United Nations means to keep its promises to the Rwandan victims of genocide and other systematic violations of law, then the Secretariat must assist the Secretary-General in his task of ensuring that the body established to bring to justice the persons responsible for such grievous crimes becomes fully functional.

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I. INTRODUCTION

1. By resolution 50/213 C of 7 June 1996, the General Assembly requested that the Office of Internal Oversight Services inspect the International Criminal Tribunal for Rwanda ("the Tribunal"), with a view to identifying problems and recommending measures to enhance the efficient utilization of resources, and to report to the General Assembly at its fifty-first session. Consequently, the Under-Secretary-General for Internal Oversight Services assembled a team of auditors and investigators to visit the Tribunal and to report on findings.

2. During the review, which was conducted at Arusha and Kigali from 30 September to November 1996, the team examined the Tribunal's records, interviewed senior officials and other staff members as well as seconded experts and conducted on-site inspections of property and facilities. Subsequently, it conducted additional interviews with Secretariat officials at Headquarters and with current and former officials of the Tribunal. Complaints from staff members and from Member States concerning perceived abuses in the Tribunal were examined, but the evidence did not confirm those allegations.

II. THE TRIBUNAL

3. The statute of the Tribunal, adopted by the Security Council on 8 November 1994 (resolution 955 (1994)), provides for three separate functions: the Chambers, composed of 11 judges who are elected by the General Assembly and who elect the President of the Tribunal; the Office of the Prosecutor, with the same Prosecutor as that for the Tribunal for the former Yugoslavia, which has responsibility for the investigations and the prosecution of cases; and the Registry, which is responsible for the administration and servicing of the Tribunal. Pursuant to statutory authority, the judges adopted the Rules of Procedure and Evidence of the Tribunal on 29 June 1995 (subsequently revised).

4. The Chambers and the Registry are located at Arusha, United Republic of Tanzania, which is the designated seat of the Tribunal and where all court proceedings of the Tribunal take place. The Office of the Prosecutor, headed by a Deputy Prosecutor for this Tribunal, is located at Kigali.

5. The Tribunal's 1996 budget is approximately US$ 40 million. Owing to the ongoing discussions on the modalities of funding its activities, the Tribunal did not have a reliable budget for more than a few months at a time until June 1996. The Tribunal's international staff is recruited by the Office of Human Resources Management in the Department of Administration and Management. Hiring has lagged because of funding and administrative delays. The Tribunal may accept seconded staff, subject to appropriate agreements with Member States as approved by the Office of Legal Affairs.

6. The Tribunal and its staff members are subject to all United Nations rules, regulations and administrative instructions, with such exceptions as may be authorized by competent authority under those rules.

III. FINDINGS

7. The evidence adduced did not confirm allegations of corrupt practices or misuse of funds. The review has, however, disclosed mismanagement in almost all areas of the Tribunal and frequent violations of United Nations rules and regulations. Many of the specifics have already been reported to the Prosecutor and to the Registrar as well as to senior officials of the Secretariat so that corrective actions could be taken immediately. A draft of the present report was provided to the President of the Tribunal, the Prosecutor and the Registrar and to the Under-Secretary-General for Administration and Management and the Under-Secretary-General for Legal Affairs. Their comments were considered in the preparation of this final version. The report provides the General Assembly with information on the major issues and problems as well as key recommendations for corrective action.

8. The Registrar acknowledged that both the Chambers and the Office of the Prosecutor have raised questions with him concerning decisions he has taken which impact on their functions. The Rules of Procedure and Evidence provide the President of the Tribunal with authority over the Registrar and provide the Prosecutor with independence of decisions. However, the Registrar argued that the Rules were subsidiary to the statute and therefore could not subject the Registrar to the supervision of another organ of the Tribunal. The Registrar has declined to meet administrative requests from the judges or the Office of the Prosecutor where in his judgement they were insufficiently justified. The disputes over the authority of the Registrar need to be addressed. As currently perceived by him, he can - and does - overrule decisions on substantive administrative matters taken by the judges and the Office of the Prosecutor. According to the Registrar, he has absolute authority when it comes to any matter with administrative or financial implications. Because of this perception, almost no decision can be taken by the other organs of the Tribunal that does not receive his review and agreement or rejection. In the opinion of OIOS this must change to more accurately reflect the servicing function of a Registry. Moreover, increased communications, including explanations by the Registrar for decisions he has taken, may alleviate some of the problems. The Registry is not an independent body in itself and its objective is to service the other two organs of the Tribunal.

A. The Registry

9. The review disclosed that not a single administrative area of the Registry (Finance, Procurement, Personnel, Security, General Services) functioned effectively: Finance had no accounting system and could not produce allotment reports, so that neither the Registry nor United Nations Headquarters had budget expenditure information; lines of authority were not clearly defined; internal controls were weak in all sections; personnel in key positions did not have the required qualifications; there was no property management system; procurement actions deviated from United Nations procedures; United Nations rules and regulations were widely disregarded; the Kigali office did not get the administrative support needed; and construction work for the second courtroom had not even started. On the other hand, OIOS wishes to acknowledge that the Registry in Arusha was established from scratch; under difficult conditions, a

courtroom and detention facilities have been constructed and a significant number of indicted individuals are or soon will be in custody.

10. The difficulties in the Registry were compounded by the absences of the Registrar, who spent more than 150 days on official travel during the period from December 1995 to October 1996. This means more than five months, or half of his time on duty, had been spent travelling. Within a period of one and a half months the Registrar travelled for 32 days. One reason for his long and frequent absences is that the Registrar believed that in many cases he should personally deliver warrants of arrest or negotiate and arrange the transport of individuals in custody. The absence of the Registrar was made more critical by the departure in mid-1996 of the Deputy Registrar, who has not been replaced. It is noteworthy that travel of the Registrar is not being authorized by any higher ranking official. The Registrar stated that, as the most senior official and head of the Registry, he approves his own travels, usually informing the Office of the Secretary-General about his travels. Because, according to the Rules of Procedure and Evidence, the Registrar shall perform all functions under the authority of the President, it would be appropriate to have the travel of the Registrar approved by the President of the Tribunal.

1. Finance

(a) Incomplete and unreliable financial records and reports

11. The Registry's Finance Section was established in Arusha, initially with two staff members, in December 1995. Until February 1996, disbursement services in Kigali were provided by the United Nations Assistance Mission for Rwanda (UNAMIR). At the time of the review, of the 11 posts provided for the Finance Section under the approved staffing table, 9 were filled. No accounting system had been established and records and books were processed manually. Poor planning had led to the late installation of the computerized SUN accounting system. Although an internationally recruited accountant received instruction in New York on the use of the SUN system in April 1996, he could not use the system because access was given only to the Chief of Finance, who was not familiar with the system. It was in September 1996 when the accountant eventually received access to the system. As a result, financial records and reports were incomplete and unreliable. United Nations Headquarters received partial financial reports for January and February 1996 as late as September 1996. As of October, vouchers for January, February and part of March 1996 only had been coded into the SUN system. In the absence of a functioning accounting system the Registry neither prepared proper bank reconciliation reports nor submitted required monthly reports to Headquarters. Without an operating accounting system, the Finance Section was also unable to fully process the payroll for local staff members.

(b) Internal control weaknesses in cash fund management

12. The review of cash fund management showed that basic United Nations requirements to operate and manage a petty cash fund were not enforced: no written cash fund procedures were established; the cash fund limit of $100,000 was always exceeded; cash in Arusha and Kigali reached levels as high as

$600,000. As a result of weaknesses in the internal control procedures, the cash fund is vulnerable to loss due to theft and/or fraud.

13. Cash replenishment was made by the Chief of Finance in person who often transported several hundred thousand United States dollars from Dar es Salaam to Arusha and Kigali because dollars were not available from banks in Arusha. These high dollar amounts were needed because salaries were paid in cash instead of using cheques. OIOS considers this to be risky, costly and inefficient. The Registrar agreed with the OIOS recommendation that salaries should be paid by cheque.

(c) Inadequate system to reimburse private/personal use of telephones and faxes

14. Although a system had been established at both Arusha and Kigali to monitor and track telephones and faxes for personal uses, no personal calls had been billed in Arusha since December 1995. In Kigali staff were billed periodically for all their private telephones and faxes; however, a number of staff members did not pay their bills. In some cases staff left the Tribunal's employment without settling their telephone bills. The Registrar stated that corrective action had been initiated and charges were collected from current staff members. He pointed out, however, that some of the staff members seconded from donor Governments refused to pay for their private calls.

15. Kigali staff have reported that the long distance lines of the office were cut when the Tribunal's billing software failed, thereby impairing the ability of the Office of the Prosecutor to conduct investigative business or contact The Hague for legal research assistance. Local telephone lines at Kigali were regularly interrupted because monthly telephone bills had not been paid on time.

(d) Delay in entering recruited staff members into the payroll system

16. There were considerable delays in entering the data for internationally recruited staff members into the Headquarters payroll system. As a result, staff members had to wait several months for their salary payments. Staff members recruited in June were, at the time of the field audit, still missing from the payroll. In the meantime, they received advances against salary payments. But even advances were paid late, forcing staff members to live on their savings until they eventually were paid. The Registrar explained that the delays were due, inter alia, to lack of personnel data, confusion in program codes and post numbers and communication problems between Arusha and New York.

(e) Double payment of salary advances

17. One staff member was appointed on secondment from another United Nations agency as a Finance Assistant with the Tribunal in Kigali effective June 1995. The staff member was not on the Tribunal's payroll for the first nine months resulting in delays in processing his salary. He therefore received monthly salary advances of $2,500 each. The first three advances paid to him were charged to Headquarters. However, the staff member himself decided to charge the next six advances to an ARL account (advance recoverable locally), although the advances had to be recovered at Headquarters where his salary as an international staff member was payrolled. As Finance Assistant, he should have

realized that he violated basic internal control standards by taking any action relating to his own salary advances. When the staff member subsequently received in March 1996 another salary advance from Headquarters which covered the period for which he had already been paid, he kept silent. In June 1996, when the double payment became known to the Chief of the Finance Section, the staff member was unable to repay the unearned amount. After a partial repayment in October 1996, he still owes $7,500. In addition, the staff member was overpaid almost $17,000 in extended mission evacuation allowance, owing to a calculation error. Although Headquarters advised the Registry as early as July 1996 of the overpayment, the Registry did not initiate recovery until October 1996 but the staff member was unable to pay. Despite these unsettled debts, the Registry granted the staff member an additional amount of almost $10,000 for home leave travel in September 1996, although aware that this entitlement was subject to further extension of the contract. As at 31 December 1996, when his contract was to expire, the staff member owed the United Nations more than $34,000. Although the overpayment and double payment had been known since mid-1996, the Registry did not initiate a salary deduction. Although OIOS advised the Registrar that the staff member had been shown to lack integrity and should not continue to serve as a United Nations staff member, his contract was extended with the concurrence of the Office of Human Resources Management beyond 31 December 1996, for another six-month period. The Registrar agreed that the contract should not be extended, but directed that the case "in all fairness" be reviewed by a panel of inquiry. If the Registrar had felt that a panel of inquiry was warranted, he could have established such a panel in June 1996. However, the non-extension of a fixed-term contract is not a disciplinary action and does not require a prior review by a panel of inquiry.

(f) Delayed settlement of travel claims

18. A staff member who worked at the Kigali office from July 1995 to July 1996 had received a travel advance of $2,865. He was reimbursed for his actual travel expense by a cheque for $4,619 issued in February 1996, and the Registry erroneously failed to recover the travel advance. When the staff member noted the error, he did not cash the check, but voided and returned it to the Registry's Finance Section requesting correction. However, no action was taken until October 1996, when, at the auditors' request, the amount to be reimbursed was recomputed and eventually paid. In the view of OIOS, the Registry failed to honour its financial obligations towards its staff member. The Registrar felt that the Office's consideration of the case was exaggerated. In view of the fact that it was the staff member, not the Registry, who noted the original mistake, OIOS does not share the Registrar's view that the delay was a minor administrative mishap.

2. Personnel

(a) Staffing

19. Most of the Registry's posts were local-level posts. However, the professional knowledge needed was believed by the Registry to require more international posts, both in the Professional and in the General Service category. In view of that situation, the Registry "borrowed" a number of

Professional and General Service posts from the Office of the Prosecutor. The June 1996 staffing table authorization has improved the overall situation by authorizing more Professional-level posts.

(b) Qualifications of staff

20. Review of personnel files revealed that while some personnel seemed to meet the job requirements, other personnel had qualifications not relevant to the positions held. Notably in Administration, the qualifications of many of the section chiefs and other staff members did not match the requirements. The former Chief of Procurement, for example, did not have any experience of the United Nations procurement system except for a few weeks of orientation at Headquarters, in the Procurement and Transportation Division. The Chief of Finance did not have the required degree in administration, finance or accounting nor did he have relevant United Nations experience in those fields. The lack of qualified staff in key positions was one of the major factors contributing to the administrative problems of the Registry. Since, in many cases, job descriptions were missing from personnel files and were not available elsewhere in the Registry, OIOS wonders how the Registry could take informed recruitment decisions.

21. OIOS acknowledges that the financial conditions both at Arusha and at Kigali may not be attractive enough to qualified staff. Compared with most peacekeeping missions, the Tribunal cannot offer competitive financial conditions: whereas staff serving in UNAMIR at Kigali were entitled to mission subsistence allowance in addition to salary, staff serving in the Office of the Prosecutor at Kigali are not. Even between the two Tribunals, the financial conditions are far from being equal: while investigators at Kigali receive their salaries at the Kigali post adjustment rate, their colleagues outposted in the former Yugoslavia receive their salaries at the higher post adjustment rate for The Hague, plus mission subsistence allowance for the field office. Unless these competitive disadvantages are addressed, this Tribunal will continue to face difficulties in attracting qualified staff.

(c) Language requirements

22. In each of the three organs there were officials and staff fluent in one of the two official languages of the Tribunal but with insufficient or no working knowledge of the other language. This has impaired communication and has led to misunderstandings. In some cases staff members were unable to communicate with their immediate supervisors or to carry out the functions of the post without a translator. While full proficiency in both languages is not a requirement, it would be useful for Professional staff members to have a working knowledge of the second official language.

(d) Personnel actions

23. Personnel action forms for local staff were submitted to the Finance Section only in October 1996 - even though several staff members had been working for the Tribunal since December 1995. As a result those employees received their net salaries without deductions for pension and medical insurance schemes. Letters of appointment were incomplete, were not signed by the

appropriate personnel officer, or were completely missing from the files. In several cases employee contracts had expired, but there was no evidence of renewal in their files.

24. These weaknesses occurred because responsible staff lacked the expertise to ensure proper implementation of personnel actions in accordance with United Nations practices. Newly assigned staff in Arusha have been working with the Office of Human Resources Management to regularize hiring practices and correct personnel file deficiencies.

(e) Other personnel matters

25. The Tribunal did not keep absence and leave reports. Thus no system was in place to ensure that staff were paid for time actually worked and that leave entitlements were properly administered. The Registrar has responded that attendance and leave reporting is now being done in accordance with established United Nations procedures.

3. Asset management

(a) Vehicle management

26. A key component for the success of the Tribunal is the availability of sufficient vehicles in good working condition. However, the Registry did not have a system to ensure authorized procedures governing procurement, receipt, accounting, maintenance and utilization of vehicles.

27. Although the total number of vehicles in Kigali exceeded that in Arusha, no transport officer was assigned in Kigali. Most of the Kigali vehicles had been left from UNAMIR or the United Nations Operation in Somalia (UNOSOM) and many of them were not functional. Repeated requests for new vehicles suitable for travelling in the rural areas of Rwanda have been made. Indeed, 27 vehicles were purchased, one of the few uses to which the trust funds have been placed, but only one went to Kigali. The other vehicles were assigned to Arusha's administrative section chiefs. According to the Chief Administrative Officer, that was necessary to replace the leased vehicles used by staff because there is no public transportation available in Arusha. The Chief Administrative Officer said he was unaware that there was no public transport in Kigali; he thought that Kigali had sufficient vehicles from UNAMIR and UNOSOM. He did not know that many of the vehicles in Kigali were out of service. Even the vehicles available in Kigali were not used in the most efficient way: for example, the Deputy Prosecutor had been assigned two vehicles; his secretary was assigned a vehicle on a full-time basis; and one vehicle was kept in the garage for the use of the Prosecutor who is based in The Hague. Vehicles were frequently used for private purposes, especially on weekends. However, no trip tickets were maintained. OIOS advised the Registry to ensure that all trips, official and private, were recorded properly and that staff members reimbursed the costs of private use of United Nations vehicles. The Registrar responded that a transport operation system was being introduced, that an inventory system had been developed and that trip tickets were now in place. The Deputy Prosecutor explained that he needed a second car for security reasons and that his

secretary needed a car because she frequently worked overtime. OIOS does not regard these as convincing reasons, especially when the trial teams of lawyers, investigators and translators were experiencing severe transport problems.

(b) Inventory

28. At the time of the review, the Tribunal still lacked a system to control all non-expendable property and ensure that it was accounted for and included in the property inventory records. The total value of such property, the majority of which was handed over from UNAMIR, was estimated to exceed $3 million.

29. Donor countries also contributed equipment and computer programmes for their experts, inter alia, 23 vehicles and 3 trailers. At the time of the review, a full inventory of such contributions did not exist. The Registrar stated that an inventory had been taken of all vehicles, but the title of ownership of vehicles contributed by Governments remained unclear.

30. The Chief of General Services assigned to Arusha in July 1996 had made efforts to establish a system to control and account for all non-expendable property at both Arusha and Kigali. Attempts in July to conduct a physical inventory at Kigali were thwarted because storage areas were closed. The Registrar has stated that the system is now adequate and operational and that inventory counts have been taken. OIOS will examine this issue again during the planned follow-up review.

(c) Use of aircraft

31. The Tribunal used a leased aircraft which was contributed by the Government of Denmark. Two flights were scheduled weekly between Arusha and Kigali, on Monday and Friday. Other flights were scheduled on an as-needed basis to places like Nairobi and Dar es Salaam. A round trip to Kigali would generally cost about $4,300 for fuel, landing and parking space, compared to $1,800 for a round trip to Nairobi.

32. OIOS reviewed the general use of the aircraft, and noted that it was used for the Tribunal's business. There were generally one or more passengers on the flight, to a capacity of 10 passengers. Analysis of the profiles of the passengers who flew on this aircraft from May 1996 to October 1996 indicated that 37 per cent of the passengers were from the Office of the Prosecutor and less than 3 per cent from Chambers, compared to almost 50 per cent from the Registry. It appears that the aircraft was used primarily for administrative purposes.

33. In June 1996, on the basis of costs quoted by telephone and without a formal bidding exercise, the Registry engaged the services of an air transport company for a charter flight from a West African country to Arusha in order to transport defendants taken into custody in that country. When the aircraft arrived at the destination, the prisoners were not ready for transport and the aircraft had to return empty to Arusha. The Tribunal incurred expenditures of more than $27,000 for this flight without achieving any benefit. The Registry could not provide documentation that a binding agreement had been reached with the authorities of the country concerned on the terms and timing of the handover

of the prisoners before the contract was awarded and the transport was arranged. The Registrar stated that the handover of prisoners was a "matter of high politics" and that it was "rather naive" to believe that a sovereign State would make a commitment of that nature. OIOS continues to believe that extraditions and handovers of prisoners are normally based on formal agreements.

4. Procurement

34. The review disclosed that in many cases procurement actions were not in accordance with United Nations regulations. A sample of 63 procurement files were examined from the list of processed purchase orders. In many cases requisitions for equipment, supplies and services were post facto actions or were not prepared at all. In several cases the purchase order information was completed and authorized only after delivery of goods and services. Lastly, approvals from the Local Committee on Contracts and the Headquarters Committee on Contracts were not always obtained and, if obtained, were sometimes post facto as well.

35. Proper procurement procedures were not enforced because the procurement section lacked personnel with the relevant United Nations expertise. Further, senior administrators generally hurried to approve actions before adequately assessing the needs and considering alternatives.

5. Building management and construction

(a) Courtrooms

36. The Tribunal is still operating with only one courtroom. The Registry originally planned to construct a temporary courtroom, and then construct two permanent courtrooms. As recommended by OIOS auditors in March 1996, the plan for a temporary courtroom was given up, and the first permanent courtroom was constructed, the contract for its construction being amended several times. At the time of the review, in November 1996, the first courtroom was completed, except for the air conditioning. According to the plan the second courtroom should have been constructed in July 1996. The Local Committee on Contracts recommended the award of the $2 million contract for the first courtroom to the contractor who was the second lowest bidder at the time. The Headquarters Committee on Contracts, which had been seized since June 1996, deferred the case several times, requesting additional information and clarification. Since the requested information was not provided, the case eventually was withdrawn by the Procurement and Transportation Division. At the time of writing this report, the contract award still had not been approved. The Registrar stated that the Registry had responded to queries from Headquarters without success and that it was incumbent upon the Office of Conference and Support Services at Headquarters to make a move. Analysis of the Tribunal's submission, however, shows that about two thirds of the proposed construction work was undefined. Thus, the position of the Headquarters Committee on Contracts that the submission as presented could not be approved was correct. However, when the Registry was obviously unable to submit a suitable proposal, the expertise of the Procurement and Transportation Division was needed to support and advise on revising the

submission and providing clarification as needed. As OIOS recommended in May 1996, the Secretariat must play a more active role to overcome the problems which result from the Registry's lack of experienced staff. In view of the delays incurred, it does not seem likely that the second courtroom will be completed before mid-1997, which will have an adverse impact on the trial schedule.

(b) Detention facilities

37. After a series of meetings, the Registry agreed with the host Government that the Tribunal's detention facilities would be located within the existing compound of the Government prison at Arusha. It was agreed that the Tribunal would take over the new prison wing that was being constructed by labour supplied by the host Government with materials supplied by the Tribunal; this area would include up to 40 detention cells. The preliminary agreement, in the form of an exchange of letters between the Registrar and the host Government, has not been finalized to establish in detail the rights and obligations of both parties in connection with the construction and operation of those detention facilities. In the case of the International Tribunal for the former Yugoslavia, a formal agreement was negotiated under the auspices of the Office of Legal Affairs. Delays in receiving material have moved the construction completion date to the end of February 1997.

B. The Office of the Prosecutor

38. The Office of the Prosecutor is headed by the Prosecutor, who also serves as Prosecutor for the Tribunal for the former Yugoslavia and is responsible for both investigation and prosecution functions under the Tribunal's statute (article 15). In its review of the Office of the Prosecutor in Kigali, OIOS found staff dedicated to the goals of the Tribunal, but some of those dedicated people have left, "having left a piece of my heart" said one, and others are contemplating leaving "in complete frustration" as one staff member put it. The degrees of frustration were expressed differently, depending on the type of personality expressing it. From anger to tears, they gave repeated reports of interference and lack of support and leadership in Kigali for the work they are doing. Regardless of the emotion expressed with them, the reports had one message in common: we will not succeed with the mission of this Tribunal unless we receive the support necessary to get the job done. The available evidence is that, from its inception, the Office of the Prosecutor has been beset with administrative, operational and leadership problems. Two years from the date of creation of the Tribunal by the Security Council, these critical deficiencies appear to undermine the mission of that Office.

1. Administrative Office

39. Unlike the other two organs of the Tribunal which are located in Arusha, the Office of the Prosecutor, comprising of the Deputy Prosecutor and prosecution and investigation staff, is entirely located in Kigali. In the beginning, it was assumed in the Tribunal and the Secretariat that UNAMIR, then also in Kigali, would provide substantial administrative assistance to the

Office of the Prosecutor, particularly while the Registry was being established in Arusha. Now, in the absence of a fully functioning Administrative Office in Kigali, the Office of the Prosecutor has been without effective administrative support since the departure of UNAMIR from Rwanda in April 1996.

40. The Administrative Office in Kigali has not operated effectively and efficiently because it has lacked delegation of authority from the Registry in Arusha to which it solely reports. Because all administrative staff assigned to Kigali reported to administrators in Arusha, they were not accountable to anyone in Kigali. When the Cashier in Kigali was leaving, she notified her supervisor - in Arusha. Some weeks later, she introduced her replacement to the Administrative Officer in Kigali who had not been notified of the replacement and even upon the arrival of the replacement had received no paperwork. As the Cashier was the sole person with responsibility for as much as $300,000, this replacement was not allowed into the Cashier's office until the paperwork arrived.

41. As a practical matter, all of the administrative support functions, which reside in the Registry, are 17 hours away by car or, at best, two hours away, using the United Nations aircraft which, twice per week, makes the only direct flight between Kigali and Arusha. While there were substantial reasons for these location choices, in the future the United Nations may wish to consider the impact of such logistical problems on the operations of a body. OIOS has been assured by the Registrar that corrective actions, including the delegation of authority for certain purchases and vehicle assignment and maintenance, are under way.

42. The distance between the Office of the Prosecutor and the Registry is more than geographical. The physical separation meant that, unlike in the Tribunal in The Hague where one organ accesses the other merely by taking a stairway, misunderstandings and miscommunications were not resolved but allowed to fester. The former Prosecutor reported that the Registrar handled issues that he raised, but the Deputy Prosecutor reports that his relationship has often been "strained and testy" and that "the Registrar has never failed to remind us of his pre-eminence rather than his readiness to carry out the mission which has brought all of us together".

2. Security

43. Participants and victims and their families and friends who survived the events of 1994 still live in Kigali. The tensions that led to crimes that caused the creation of the Tribunal remain part of the fabric of the city. The anger of some of the populace against UNAMIR has been transferred in part to the Tribunal, which is now housed in UNAMIR's old offices in the Amahoro Hotel. Threats were received regularly; three Tribunal investigators were assaulted; a bounty was placed on United States citizens.

44. The former Prosecutor advised the senior staff of the Office of the Prosecutor in February 1996 that he had "just sent a letter to the Secretary-General stating clearly my intent to close the office should adequate security arrangements not be in place upon UNAMIR's withdrawal ...". Nine months later,

OIOS found there was no fully developed evacuation plan. The Security Director advised that as from 27 January 1997 a plan now exists that includes a complete list of staff residences and that could be made operational without the involvement of other United Nations offices.

45. Staff arrived in Kigali with no advance briefing unless they had come from The Hague; no security briefings were given upon arrival; no security briefings were given to investigators going into the field; staff members relied on suggestions of other staff and the local radio for advice on housing, shopping, travelling, situation reports; no regular security briefings or updates for emergency situations were given. There was no listing of where all staff lived or how they could be contacted unless they had been issued a radio by Communications, and not all staff had access to radios. The Security Director advised that improvements have been made since the review was carried out; security briefings have been developed; and radios have been issued to all international staff members.

46. There were no extraction plans or contact points for staff travelling in the countryside should staff fall ill or become injured or other matters arise affecting their safety or security; while a security officer was to accompany each field team, frequently no officer was available. Security at the office in Kigali was lax in the extreme; private security officers did not check identifications; they were observed sleeping at their posts and were not supervised by international staff on nights and weekends; pass procedures were so poor as to be non-existent; the front desk and front gate were observed unattended, with the gate and front door wide open. The Security Director advised that he has spent additional time in Kigali in recent weeks to improve security, and he noted that extraction plans were being developed and pass procedures had been tightened. However, owing to security staffing shortages, security officers were often unavailable to accompany investigative teams in the field or to supervise the local private security guards.

3. Equipment

47. The issue of vehicles was closely connected to security for Kigali staff. One of the prosecution teams which had been working late nights and weekends reported severe difficulties in arranging transport for the team and no response from either the Deputy Prosecutor, who had two assigned vehicles, or Administration in Arusha. Other staff in Kigali reported on two meetings with the Registrar and the Chief Administrative Officer when they were told that they would be getting new vehicles suitable for conducting investigations in Rwanda. The Chief Administrative Officer asserted that the staff members had "misunderstood"; the vehicles were to be the ones provided by UNAMIR. When new vehicles were not provided, several of the staff raised the issue with the Deputy Prosecutor who told them - and OIOS - that he could do nothing about it. Recently, the Registrar advised OIOS that 32 new vehicles were on order for Kigali and additional vehicles would be requested in the 1997 budget.

48. The shortage of computers and other office equipment in Kigali has been reported to Arusha for more than a year, but to date all of the computers were those provided by UNAMIR, by Member States as in-kind contribution or by staff

members who had brought their own laptops for both office and field work. The Registrar advised that 85 new computers were on order for Kigali. While the OIOS team was in Kigali, there were no functioning copiers and no staff assigned or contractor designated in Kigali to repair equipment. The Registrar advised that five copiers were on order for Kigali.

4. Law library

49. Lawyers in the Office of the Prosecutor had no library of primary sources or any direct access to such sources. The library in Kigali was composed of fewer than 200 books, most of which were in the area of international law, not criminal law, and the majority of those books were brought by the staff lawyers from their own libraries. The Registrar acknowledged that this programme "was not given the urgency it might deserve". Because "funding is inadequate (only some $5,000 has been allocated)", the Registrar suggests funding from donor voluntary contributions to assist in the development of a law library and ancillary material for both Kigali and Arusha.

5. Staffing

(a) Posts

50. The Office of the Prosecutor is seriously understaffed. Delays in recruitment and the lengthy hiring process have affected the work of the Office. Indeed, Professional and other level posts assigned to the Office were "borrowed" by the Registry and filled by General Service or Field Service staff in administrative posts in Arusha. The Registrar stated that this action did not affect recruitment to the Office, but the Prosecutor disagreed.

(b) Secondments

51. In support of the efforts of the United Nations, the Security Council urged its members to contribute funds, equipment and services, including the offer of expert personnel to the Tribunal. In response to that call, various States, including Denmark, the Netherlands, Norway and the United States of America, as well as the European Union, have contributed expert personnel to the Office of the Prosecutor. The Registrar suggested that the use of seconded personnel could be discontinued by 30 June 1997, but the Prosecutor stated that the reliance on seconded personnel could not be discontinued without an adverse effect on continuing investigations. Of the investigators who were working in Kigali, 28 were seconded staff, some of them serving in the vacant senior investigative functions. Often neither the Registry in Arusha nor the Office of the Prosecutor in Kigali was notified in advance of arriving seconded staff. Supervision of their work and attendance was limited. The Registrar stated that United Nations recruitment was under way. Both the Prosecutor and the Registrar believe they should participate in or have full knowledge of all arrangements made with donor Governments.

(c) Qualifications

52. Although young lawyers in the Office of the Prosecutor had recent and substantial relevant criminal trial experience, the incumbents in the three senior attorney posts did not. All are good and decent people, trying their best to serve the needs of the Tribunal under difficult conditions, who have worked hard to understand the cases and the rigours of conducting the prosecutions under the Tribunal's Rules of Procedure and Evidence. While both Prosecutors acknowledged the absence of senior lawyers with the necessary experience (which is disputed by the Deputy Prosecutor), both Prosecutors noted the difficulty in attracting highly qualified candidates, citing the difficult working conditions and the length of time the United Nations recruitment process requires. It would seem axiomatic that the most important criminal trials since the Nuremberg trials would require a high degree of expertise in criminal law and procedures and significant relevant experience. The lack of pertinent experience had been noted; both Prosecutors had developed training programmes and trial advocacy workshops were planned for senior trial attorneys.

53. In addition, legal officers assigned to the investigation teams, with one exception, had little or no experience in criminal investigations; yet they were charged with the task of advising the investigators on how to proceed to collect sufficient evidence, as well as drafting and defending the indictments. This process has been corrected by the current Prosecutor. A rigorous review process for all indictments in both Tribunals is now in effect.

(d) Witness-related programmes

54. The slow development of witness-related programmes hampered trial preparation and has the potential to impact negatively on the trials. The Tribunal's Witness Protection Programme, under the auspices of the Registry, was developed only recently and without the involvement of any person with specialized training and relevant experience. Critically, the programme did not include any post-trial phases. The Registrar advised OIOS that an agreement was being concluded with a non-governmental organization knowledgeable in this area to assist the Tribunal. The Witness Clothing Programme had not been developed. Many of the witnesses, in the cases for which indictments have been confirmed, live in rural areas and will require assistance in securing appropriate clothing and shoes. Less than $5,000 had been allocated.

6. Leadership

55. In 1995, recognizing the need to engender confidence in the Tribunal by proceeding expeditiously to the first indictments, the Director of Investigations had established, at the direction of the former Prosecutor, a geographical strategy that sent investigative teams to Kibuye and Butare; those teams did produce indictments. In addition, whenever a country took potential defendants into custody, investigators were removed from their assigned cases to investigate the activities of those in custody to determine whether there was sufficient evidence to have them transferred to the custody of the Tribunal. Those actions also resulted in indictments.

56. Once the first indictments were obtained, however, the former Prosecutor, who travelled to Kigali 11 times in his 18 months as Prosecutor, encouraged the Deputy Prosecutor to focus on national figures, recognizing that the time needed to develop such cases could take many months. The Deputy Prosecutor continued to follow the initial prosecution strategy, and did not redirect the limited resources of the Office of the Prosecutor to pursue key figures in the genocide, nor did the former Prosecutor take affirmative steps to ensure this new focus. Those assigned to investigative teams advised OIOS that the teams had been setting their own plans and strategies. Further, despite pressure from staff in the Office of the Prosecutor and from both Prosecutors to provide day-to-day operational leadership as the senior officer, the Deputy Prosecutor did not assume the role: the Office continued to operate without sufficient staff and other resources; without sufficient staff prosecutors who possessed enough relevant legal experience to direct the investigations and to prepare and conduct the trials; and without critical day-to-day operational guidance. As one of the lawyers stated to OIOS, "We have a leadership void".

57. The Deputy Prosecutor disagreed; he stated that the Registrar's assertion of superior authority prevented the Deputy Prosecutor from taking contrary decisions. Further, he stated that the former Prosecutor defined the strategy: "He gave directives and instructions and I enlisted the contribution of the Director of Investigations in order to make the strategy operational. The latter saw to the implementation of the practical investigation and prosecution measures. He enjoyed all my trust for the mission assigned to him."

58. In OIOS discussions with the Deputy Prosecutor, when questions concerning deficiencies in the operations of the Office of the Prosecutor were raised and he was asked what he had done to address them, he repeatedly responded that he did not have the authority to do so. This position effectively abolished the independence of the Prosecutor's Office and reduced it to yet another section of the Registry.

59. The absence of a revitalized prosecution strategy and leadership will not allow the Office of the Prosecutor to achieve its objectives. This is the single most significant failing. Unless that is corrected, the Tribunal will have been created to little effect; the Rwandans will be right to suspect that justice delayed is justice denied; and the United Nations will have failed in its promise to put an end to such crimes and to take effective measures to bring to justice the persons who are responsible for them. The current Prosecutor reports that she has taken an active role in the guidance of the Office and in reinvigorating its prosecution strategy to meet the objectives established for the Tribunal.

C. The Chambers

60. The third organ of the Tribunal consists of the Chambers, two Trial Chambers and an Appeals Chamber, composed of 11 judges, including the President of the Tribunal. The judiciary of the Tribunal was established by the Security Council as an independent body. The decisions of the Trial Chambers are subject to review by the Appeals Chamber, shared with the Tribunal for the former Yugoslavia; as such, this organ of the Tribunal is not within the scope of the

present review except as the Chambers are affected by the operations of the Registry. The statute of the Tribunal provides that the Registrar shall be appointed by the Secretary-General after consultation with the President of the International Tribunal for Rwanda (article 16 (3)).

61. The Rules of Procedure and Evidence provide that the President shall supervise the activities of the Registry as well as exercise all the other functions conferred on him by the statute and the Rules (rule 19). The Rules further provide that the Registrar shall consult with the President before recommending the hiring of Registry staff (rule 31) and that the Registrar under the authority of the President shall be responsible for the administration and servicing of the Tribunal (rule 33).

62. The President, the Vice-President and other judges have acknowledged to OIOS that these Rules "were not implemented in an effective manner", owing in part to the delays in the establishment of the Tribunal which caused the judges to have to operate from their various home countries. It has been impressed on OIOS by the judges that the President will more effectively implement these Rules in the future. To the extent that this will allow for a more smoothly running Tribunal, this plan appears reasonable. Although the Registrar has stated that in his view the President of the Tribunal has no authority as concerns Registry activities, his position exceeds his authority and his role. However, OIOS cautions against undue involvement by individual judges in the operations of the Registry. Moreover, the President, in communicating the needs of the Chambers to the Registrar, must guard against the perception that his guidance impacts on the operations of the Office of the Prosecutor.

63. The judges also observed to OIOS:

> "In establishing the Tribunal, the United Nations Security Council has clearly stipulated that the Tribunal is an independent judicial body. But at the same time the Tribunal is a subsidiary organ of the Security Council created in conformity with Article 29 of the Charter of the United Nations. The Security Council in its resolution 955 (1994) requested the Secretary-General to implement its resolution and in particular to make practical arrangements for the effective functioning of the Tribunal."

IV. UNITED NATIONS SECRETARIAT

64. The judges of the Tribunal acknowledged to OIOS that the existing mechanism in the United Nations for the implementation of Security Council resolution 955 (1994), so that the Tribunal may function, is through the departments in the Secretariat. Both the Department of Administration and Management and the Office of Legal Affairs in their comments on the draft report asserted that the judicial independence of the Tribunal as a separate organ of the Security Council required that responsibility for the affairs of the Tribunal rest solely within the Tribunal.

65. The Office of Legal Affairs asserts, further, that the judicial independence of the Tribunal precludes active involvement by the Secretariat, but this did not prevent the Office of Legal Affairs from rendering ad hoc

opinions on Tribunal matters, nor did it preclude that Office from playing an active role in the establishment of the Tribunal for the former Yugoslavia. Nor did it prevent the Department of Administration and Management from similar activity in the administrative and budgetary areas. The judicial independence of the Tribunal is beyond question, being firmly established by the resolution of the Security Council. However, the essential independence of judicial and operational decision-making by the Chambers and by the Prosecutor should not be confused with total separation. Administrative, financial and other support services are necessary support functions to the Chambers and to the Prosecutor for which the Secretariat, as the mechanism by which the Secretary-General may implement the Security Council resolution, cannot shun responsibility on the basis of interpreting the judicial independence as all barring.

66. Repeatedly, OIOS was told by Secretariat staff that the Tribunal was not the responsibility of any Secretariat department. Staff members asserted that they did not believe that they had any authority or responsibility for the actions of the Tribunal administrators. Nevertheless, both the Office of Legal Affairs and the Department of Administration and Management acknowledge that the financial rules, the personnel rules and the other administrative issuances of the United Nations apply to the Tribunal personnel and functions.

67. Secretariat managers who were interviewed by OIOS while asserting lack of responsibility for the Tribunal acknowledged their in/out involvement with budgetary, personnel, legal and financial aspects of the Tribunal. This attitude is the heart of the difficulty in resolving administrative and support issues. The Secretariat's involvement was non-committal: some assistance was provided but only tangentially under the premise that the Secretariat staff were not authorized to do so. As a result we see the swing of action from "hands off" to ad hoc micromanagement. OIOS was provided with various explanations, including, for example, that financial management had other responsibilities and could not respond to requests for qualified staff to set up an accounting system for the Tribunal; the failure of the Tribunal to provide monthly allotment reports went unnoticed amid the problems in the implementation of the Integrated Management Information System; there had been no consideration of a financial incentive (e.g., mission subsistence allowance) or a promise that a secure post would not be abolished while a staff member served with the Tribunal because the administrators of the Tribunal had not asked for those considerations; lawyers in the Office of Legal Affairs who had drafted the statutes for both Tribunals and effectively nurtured the Tribunal for the former Yugoslavia through its development in a far less difficult environment asserted that they were not in a position to assist the Tribunal nor did they have the expertise for other than routine legal matters.

68. While there was no defined line of authority over the Tribunal, the Department of Administration and Management had <u>de jure</u> responsibility for personnel actions and procurement and budgetary matters. OIOS was cautioned in interviews with Secretariat staff that they were being asked to do more with less under the financial restrictions and could not assist the Tribunal with its administrative problems.

69. Thus struggling with the daunting tasks of establishing the Registry, securing staff, and constructing a courtroom, offices and prison facilities, the

Registrar was given little active help by the Secretariat departments. To his credit, the Registrar has accomplished these tasks in a difficult environment.

V. CONCLUSIONS

70. Although many of the specific complaints made to OIOS and others were not substantiated by the available evidence, the charges of mismanagement were not only supported by the evidence, but the team of investigators and auditors found additional evidence that the administrative support functions did not operate either efficiently or effectively and, in some cases, virtually not at all. Key administrators in the Registry and the Office of the Prosecutor did not effectively fulfil their responsibilities. The details of certain of the administrative and personnel matters have been communicated directly to responsible officials in the Secretariat and to the Prosecutor and the Registrar. A number of personnel changes have occurred, including the Chief Administrative Officer, the Chief of Personnel, the Chief Procurement Officer and the Chief Finance Officer.

71. Many of the problems raised could have been avoided had the management of the Registry and the Office of the Prosecutor taken the necessary steps: first, adhered to the rules, regulations and administrative issuances of the Organization, as well as to standard management practices for instructing and communicating with staff members and others about the goals and timetables of the Tribunal; secondly, maintained the separate, specifically assigned authority and responsibilities unique to each organ, particularly as between the Registry and the Office of the Prosecutor; and, thirdly, developed strategies and mechanisms for achieving those goals and for resolving internal disputes transparently.

72. The judicial independence of the Tribunal is unquestioned, but it does operate under authority and funding provided by the United Nations and is subject, therefore, to the rules, regulations and administrative oversight of the Organization.

73. When establishing this Tribunal, the United Nations took on the responsibility for securing its effective operation. The evidence suggests that, once a few key administrators were selected, the Secretariat failed to take responsibility for providing essential support for the Tribunal until it could become functional. As a result, the Tribunal has yet to achieve its goals and, without such support, it will not succeed. Many of the deficiencies and failures which permeate key facets of the administrative operation are in the process of being corrected; some can be effected by personnel changes and the development of a functional administrative structure. For these changes to occur, however, the Secretariat must take greater responsibility for assisting the Secretary-General in the implementation of Security Council resolution 955 (1994), in particular in making practical arrangements for the effective functioning of the Tribunal.

74. The problems identified in this report indicate that the Tribunal is in need of substantial change. As a result, recommendations have been made by OIOS, which is pleased to note that a number have been or are being implemented.

In addition to the key recommendations included here, detailed additional comments and recommendations have been made to responsible senior Tribunal and Secretariat officials. To determine whether such recommendations are implemented and whether additional recommendations may be needed, particularly as concerns the operations and services of the Registry, OIOS will conduct a follow-up review in the areas where serious problems were noted. That limited review will take place in the second quarter of 1997.

VI. RECOMMENDATIONS

75. The Department of Administration and Management should be the designated Secretariat department to serve as a source of support and guidance to the Registry. (CS96/191/001)

76. The Tribunal for Rwanda and the Tribunal for the former Yugoslavia should facilitate and foster their mutual relationship. Common expertise should be shared, as is already the case for instance with the legal expertise of the Prosecutor through joint indictment reviews and legal analysis. Similar contact at the investigative level would be useful both in the development and articulation of strategies and in operational matters such as the use of informants. (CS96/191/002)

77. The Tribunal for the former Yugoslavia, begun earlier and with a more established Registry, should serve as a useful model as well as a relevant contact for issues still unresolved in the Registry in Arusha. (CS96/191/003)

78. The Tribunal, with the assistance as needed of the Office of Legal Affairs, should set forth clearly the role, scope and reporting relationships of the Registrar, within the definitions established by the statute, so that the independence of the Chambers and the Office of the Prosecutor are fully recognized and the service function of the Registry is emphasized and guided. (CS96/191/004)

79. The President of the Tribunal should supervise the activities of the Registry as provided by the Tribunal's Rules of Procedure and Evidence. This would include approval of the travel of the Registrar. (CS96/191/005)

80. A Deputy Registrar with substantial experience in court management should be appointed expeditiously. (CS96/191/006)

81. The Registrar should establish regular meetings with the President of the Tribunal and the Deputy Prosecutor in order to discuss his clients' needs and solve potential problems. (CS96/191/007)

82. The Registry should establish adequate internal controls to ensure that the United Nations rules and regulations are enforced, particularly as to cash management, property management, payroll, entitlements, procurement, personnel actions and financial information. (CS96/191/008)

83. The Administrative Office in Kigali should be upgraded and authority should be delegated so as to enable the Administrative Officer to provide all day-to-day administrative services to the Office of the Prosecutor. (CS96/191/009)

84. The Registrar, with the support and assistance of the Department of Administration and Management, should fill key positions with qualified staff who have the professional expertise and experience needed to operate the various functions effectively and efficiently. In the recruitment, language skills in English and French, the two working languages of the Tribunal, should be given more attention. An increase in the number of international posts for the Tribunal should be considered. (CS96/191/010)

85. The Registry, with the assistance of the Office of Legal Affairs, should seek a written agreement with the host Government stipulating the detailed terms and conditions for construction and use of the detention facilities in Arusha. (CS96/191/011)

86. The Registry should establish procedures to ensure that contributions in kind are accounted for and utilized in conformity with United Nations rules and regulations and with donors' intentions, and the Registrar and the Prosecutor should have full knowledge of all such agreements. (CS96/191/012)

87. The Registry should operate dollar bank accounts both in Arusha and Kigali in order to minimize cash payments and cash holding by issuing cheques to staff and vendors. (CS96/191/013)

88. The Registry, with staff and resource assistance from the Secretariat, should take immediate measures to ensure that the accounts are corrected, backlogs in financial reporting are settled and all staff members are entered into the payroll system. (CS96/191/014)

89. The Registry should immediately initiate recovery of overpaid salaries and entitlements. (CS96/191/015)

90. The posts "borrowed" by the Registry should be returned to the Office of the Prosecutor and filled without delay. (CS96/191/016)

91. The Prosecutor should select as Deputy Prosecutor a person with substantial leadership skills and relevant experience in the running of a prosecutorial office and the directing of significant criminal investigations. (CS96/191/017)

92. The Prosecutor, with the assistance of the Office of Human Resources Management, should select experienced criminal trial lawyers, particularly those with experience commensurate with the institutional requirements of the Tribunal, to be recruited on an expedited basis. (CS96/191/018)

93. The Prosecutor, with the assistance of the Office of Human Resources Management, should provide the existing senior trial attorneys with sufficient training. Close supervision is necessary to determine if they can be ready to try these most critical criminal cases. (CS96/191/019)

94. Senior investigative posts should be held by staff who are fully responsible and accountable to the Prosecutor and the United Nations. The Prosecutor should select, and the Registrar should recruit with the assistance of the Office of Human Resources Management, experienced investigators with the necessary experience and skills to supervise and conduct the investigations. (CS96/191/020)

95. The decision to share the few forensic investigators with the Office of the Prosecutor for the former Yugoslavia should be reconsidered by the Prosecutor as it may delay the substantial work still to be done in Rwanda. The funding for this specialized function should be developed by the Registry in consultation with the Prosecutor. (CS96/191/021)

96. The Prosecutor should take urgent steps to enlist the services of intelligence analysts with strategic experience to coordinate the strategy so that leads are developed, assessed and prioritized. (CS96/191/022)

97. The Registry should give priority to security in both Kigali and Arusha, including filling existing vacancies and increasing the number of posts to meet new needs created by the expanding witness programmes and the commencement of trials. (CS96/191/023)

98. Given the difficulties caused by the absence of necessary law office resources in Kigali, the Office of the Prosecutor in The Hague and the Office of Legal Affairs should provide more structured support while the Registry seeks additional funding. (CS96/191/024)

99. As observed by the Advisory Committee on Administrative and Budgetary Questions (A/49/7/Add.12 of 10 March 1995), the Victims and Witnesses Unit, now in the Registry, should be located within the Office of the Prosecutor. The Unit should be run by experienced personnel with the necessary training in this specialized area. As most of the witnesses speak Kinyarwanda, at least some staff with knowledge of this language will be critical. The needs of defence witnesses, which could not appropriately be handled by the Office of the Prosecutor, could be delegated to the official in the Registry who administers all defence-related matters and who could then call on the experience of the Witness Protection Unit of the Office of the Prosecutor as appropriate. (CS96/191/25)

100. The Registrar should promptly establish a post-trial programme, given that the first witnesses have already testified in the first trial. The Prosecutor, in consultation with the Office of Legal Affairs, may develop a programme that can utilize the seriously underutilized Trust Fund. (CS96/191/26)

(Signed) Karl Th. Paschke
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